

Notice of Allowability

Application No.

10/705,183

Examiner

Dong Jiang

Applicant(s)

HURST ET AL.

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 10/24/07.
2. ☒ The allowed claim(s) is/are 28, 33 and 34 to issue as claims 1-3, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 10/24/07
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

The request filed on 24 October 2007 for a Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/705,183 is acceptable, and a RCE has been established. An action on the RCE follows.

Applicant's amendment filed on 24 October 2007 is acknowledged and entered. Following the amendment, the new claims 33 and 34 are added.

Currently, claims 28, 33 and 34 are pending and under consideration.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Melodie Henderson on 15 November 2007.

The application has been amended as follows:

In claim 33, line 3, the word "Try" has been replaced by -- Tyr --.

In claim 34, line 3, the word "Try" has been replaced by -- Tyr --.

Examiner's Statement of Reasons for Allowance

The following is an examiner's statement of reasons for allowance: the newly added claims 33 and 34 are directed to a method of treating a Helminth infection with a polypeptide comprising amino acids residues 1-145 of SEQ ID NO:2, which is designated IL-174. Residues 1-145 of SEQ ID NO:2 (161 amino acids) represents the mature form (without the signal peptide) of IL-174. Although the specification does not specifically mention the mature form of IL-174 of SEQ ID NO:2 or the polypeptide of SEQ ID NO:2 without the signal peptide, the

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concept is clearly shown in the sequence listing of the application: the first 16 amino acid residues of SEQ ID NO:2 are labeled “-16 to -1”, which is the way well established in the art to indicate a signal peptide of a polypeptide. Therefore, one skilled in the art would readily recognize that residues 1-145 of SEQ ID NO:2 is the mature form of the IL-174. As such, no new matter is added in claims 33 and 34.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion:


Claims 28, 33 and 34 are allowed.

Advisory Information:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dong Jiang whose telephone number is 571-272-0872. The examiner can normally be reached on 9:30 am - 7:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on 571-272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LORRAINE SPECTOR
PRIMARY EXAMINER

Dong Jiang, Ph.D.
Patent Examiner
AU1646
11/16/07